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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,078

03/12/2004

James L. Snyder

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/799,078	Applicant(s) SNYDER, JAMES L.	
	Examiner Tri M. Mai	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/08/04</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. The previous Office Action was inadvertently mailed out with a different application.

This action is made non-final per telephone call dated 02/27/07.

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 8-20 have been renumbered 7-19.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wysocki (4194677).

Wysocki teaches a carton having a pour spout so as to define a pour spout in the inner and outer wells of the carton. The pour spout having an outer layer hinged to the outerwall along a first fold line, and a spout inner layer hinged to the inner wall along a second fold line so that the pour spout can pivot about the fold lines between open and closed position and the spout inner layer and the inner wall abut in edge wise relation at a location between the fold lines and an end of the spout outer layer as claimed.

4. Claim 3, 5, 6, 7-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysocki in view of Giblin (5145111)(col. 3, ln. 3-7). It would have been obvious to one of ordinary skill in the art to provide a layer vapor impermeable coating to provide protection and to enable one to hold the desired contents.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wysocki rejection, as set forth above in paragraph 2, and further in view of Roland (5660324). It would

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have been obvious to one of ordinary skill in the art to provide nick cut as taught by Roland, portion 43, col. (col. 2, ln. 57) to enable one to provide the added protection.

6. Claim 3, 5-10, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Giblin (5145111) or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Giblin in view of Griffiths (5209394). Giblin teaches a container from "Super MVTR board" wherein the spout is movable between a closed position and an open position in which contents forming a labyrinth seal in which an inner edge of the spout abuts the carton at a location between a spout fold line 66 and an outer edge. Note that "Super MVTR board" is a clay coated board and having a MVTR of .8. (see Griffiths et al. 5209394 col. 5, ln. 27-67).

7. Claims 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giblin (5145111) rejection, as set forth in paragraph 4, and further in view of Kuchenbecker (5035330). Giblin teaches a container from "Super MVTR board" wherein the spout is movable between a closed position and an open position in which contents forming a labyrinth seal in which an inner edge of the spout abuts the carton at a location between a spout fold line 66 and an outer edge. Note that "Super MVTR board" is a clay coated board and having a MVTR of .8. (see Griffiths et al. 5209394 col. 5, ln. 27-67). With respect to the inner layer, Kuchenbecker teaches that it is known in the art to provide an inner layer as well (col. 1, 44-46). Thus to provide an inner layer would have been obvious to provide added protection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
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